

Follow up questions for EPA Region 9 – December 2, 2013

State Oversight

1. Guidance 30 says that there are four parts of effective oversight of state programs: annual reporting, grant reporting, noncompliance reporting, and program evaluations.
 - a. What role does the regional office play in reviewing states' annual 7520 reports? Does the region do any quality checks—that is, does it verify that the data are entered correctly and consistently with other states and ensure corrections are made?
 - b. What role does the regional office play in reviewing states' grant reports?
 - c. What role does the regional office play in reviewing noncompliance reports, also from the form 7520s?
2. Guidance 30 also says that regions will conduct an annual on-site evaluation of each primacy state.
 - a. How often does your region conduct each of these reviews of state UIC programs? When were the most recent reviews completed?
 - b. What elements do these reviews generally include?
 - c. Are there written reports or documents that are produced at the conclusion of these reviews? Are they submitted to headquarters? Please provide copies, as appropriate.
 - d. According to Guidance 30, the annual evaluation uses the following documents: the MOA, state regulations, grant award documents, EPA guidance, and prior evaluation reports. How does the regional office use each of these documents in its review?
 - e. Does the regional office conduct file reviews during the annual evaluation?
 - f. In 2011, the Horsley Witten Group published their review of the CA UIC Program. Why did the regional office decide to conduct this review?
 - g. Was the regional office concerned or surprised by any of the report findings? If so, which ones?
 - h. CA responded to the report with a UIC Action Plan in November 2012. Has the regional office discussed this response with CA UIC officials? Has the regional office requested the state to take additional or different actions from what is outlined in the plan?

- i. Does Region 9 plan to conduct similar reviews with other states or with CA? If so, when?
3. Do you have the information you need to assess the state programs in your region? Why or why not?
4. Is the region's review of the state UIC Class II programs effective? Where is the oversight missing and where can it be improved?

MOAs

5. Guidance 14 says that the central purpose of the state MOA is to lay out the arrangements and provisions for administering and enforcing the UIC program. Are MOAs the primary mechanism for administering and enforcing the UIC program?
6. How does the regional office use the MOA in reviewing state programs, and how is this review coordinated with other aspects of review, such as annual grant reporting?
7. Guidance 14 includes several model provisions for an MOA. Do the states in your region all have these provisions? If not, why not? Do they need to be updated?
8. Has the region updated the MOA for any of its states? If so, which ones and for what purpose?
9. Do any of the MOAs in the region need to be updated? If yes, for what purpose?
10. What types of revisions, if any, would be useful to make to state MOAs? Would electronic reporting requirements need to be added to MOAs as the UIC database comes online?
11. Guidance 14 says that in the Memorandum of Agreement between EPA regions and states with primacy, states will agree to provide the following: an updated inventory, annual reports (MIT, monitoring, inspections, corrective actions), all complaints and actions taken, an account of the results of review of wells during the year, and a summary of enforcement actions each year.
 - a. Do each of the states' MOAs include such a requirement? If not, why not?
 - b. Do states submit a report to the region with this information? If not, why not?
 - c. If these reports are submitted, what is done with them?

State Regulations

12. Guidance 34 discusses substantial revisions to state programs and how the region should review them.
 - a. Have states in your region kept you informed of their Class II regulatory changes? What is the status of regional review of state regulatory changes?
 - b. How do you determine whether changes in state Class II regulations are substantial?
 - c. Can you provide documentation of your review of changes to state regulations in your region?
13. Has the region prepared "action memos" to submit to the Federal Register and headquarters based on any substantial changes to state regulations?
14. What does EPA need to do to incorporate the changes into federal law? What is the effect of not having these changes in federal law?
15. The guidance says that all aquifer exemptions will be considered substantive changes.
 - a. Does the region know of all aquifer exemptions that have been made? Have any exemptions been denied? Why or why not?
 - b. Did the region submit the Aquifer Exemption Forms to headquarters, as the guidance directs?

Collection and Management of Data

1. The 1986 UIC program definition of SNC provides criteria to help state program directors identify violations that are SNCs. Do states in Region 9 use this guidance?
2. Do states define SNCs consistently, in the region's experience? If not, what differences exist?
3. Are there data entry guidelines for completing these forms? For example, guidance that instructs that variables with no results should be filled with a 0, rather than being left blank?
 - a. Is there a guide that EPA regional offices can use to check and, if necessary, edit forms 7520? For example, if forms are returned with blanks, is there a protocol for determining how they should be filled?

Questions specific to completing forms 7520-2A and -2B

4. The instructions on the 7520-2B indicate respondents should count the number of times a well in noncompliance has allegedly contaminated a USDW. Does this refer to any complaints by individuals or groups who believe that a Class II well has contaminated a

USDW, or does it only refer to confirmed cases of contamination of USDWs? In your experience, is reporting of alleged cases of USDW contamination consistent from state to state?

5. "Unauthorized injection" may be a violation reported on a 7520-2A or a SNC reported on a 7520-2B; however, the definition provided on the 7520-2B for unauthorized injection SNC is, "Any unauthorized emplacement of fluids (where formal authorization is required)". If a SNC entails any unauthorized emplacement of fluids where formal authorization is required, is it possible to have a non-SNC unauthorized injection violation? If so, please provide an example.
6. When a state agency or EPA regional office completes a 7520-2A, should the totals also include SNCs, or should they be separate? In other words, if a state cited ten violations, and five of these were SNCs, should the 7520-2A list 10 violations (SNC and non-SNC combined) or 5 (non-SNC tallied completely separately from SNC)?
7. It appears that some states use rows A in sections V and VI, "Number of Wells with Violations" and "Number of Wells with Enforcement Actions" as a subtotal of the number of total violations and total enforcement actions, respectively (Sections V and VI, rows B, numbered). Conversely, other states do not appear to use these rows as subtotals. Can you please tell us whether the number of wells with violations should be a subtotal of the total violations in each category? And similarly, whether the number of wells with enforcement actions should be a subtotal of the total enforcement actions in each category?
8. We have seen examples of states who have added rows to their 7520s to account for violations not specified on the standardized form 7520. If this were to occur within your region, how would your office handle this?

Use of data

9. Would a computerized database of aggregated 7520 data aid your Regional office in its monitoring and enforcement? How would your oversight be different with computerized data?
10. To what extent do you use violations data from the 7520-2A and -2B forms to target inspections or prioritize state evaluations?
11. In your region's primacy states, do you use data from the 7520 to observe trends in types of violations?

Documents requested:

- Annual review reports for each state for 2008 through 2012 (or whatever reports are available)
- MOAs for each state in the region
- Action memos or Federal Register notices of changes to state programs

- Aquifer exemption sheets for all aquifer exemptions